



Parks and Recreation
Manager's Office

201 W. Colfax Avenue, Dept. 601
Denver, CO 80202
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www.denvergov.org/parksandrecreation

May 19, 2017

Annual Denver 4/20 Rally
333 W. Ellsworth Ave. Suite 102
Denver, CO 80223
Attn: Miguel Lopez
VIA EMAIL: mpedrolopez@yahoo.com

Robert J. Corry, Jr.
Corry & Associates
437 W. Colfax Ave. Suite 300
Denver, CO 80204
VIA EMAIL: rob@RobCorry.com

RE: Notice of Violations and Issues for Annual Denver 4/20 Rally, Permit #19583 (the "Permit")

Dear Mr. Lopez and Mr. Corry:

On April 20, 2017, you held an event known as the "Annual Denver 4/20 Rally" (the Event) at Civic Center Park pursuant to the Permit issued by Parks and Recreation. The Event is subject to compliance with the Permit as well as the Denver Department of Parks and Recreation Public Event Policy, adopted October 25, 2016 (Policy). You were provided a copy of this Policy by email and letter dated December 30, 2016, where you were advised that it included penalty charges and consequences for onsite violations. See Attachment 1. Section 8.1 of the Policy states:

Permittee holding any Event Permit shall be responsible and liable for failure to perform in accordance with the Event Permit, this Public Event Policy and Applicable Law. The City reserves the right to hold the Permittee fully accountable for any violation of the Event Permit, this Policy and Applicable Law.

As you are aware, the City has numerous concerns with the conduct of your event this year, and has evaluated the Event under the Policy. I appreciate you meeting with me yesterday to provide information regarding the problems at the Event, and your plans to correct those problems in the future. However, there were numerous issues at the Event that violated City requirements. Generally, I find the most significant concerns involve the following issues: noise, trash, security, health code violations, and other city department violations. This letter is to inform you of violations that occurred under the terms of the Permit or Policy and the penalties the City is imposing as a result of these violations.

Noise

Section 6.14 of the Policy addresses the use of amplified sound. The City acknowledges that your noise levels were checked periodically throughout the day to determine if your amplified noise was within ranges required under Chapter 36 of the Denver Revised Municipal Code, and I can confirm that, according to The Department of Environmental Health, your noise did not violate this ordinance. However, Section 6.14.1 of the Policy requires that you operate your amplified sound system in a manner such that “the sound and vibration levels produced by such system” do not become “a public nuisance or an unreasonable disturbance to the residences, businesses and schools in the surrounding neighborhood.”

The City received multiple complaints regarding the noise levels throughout the day on April 20, 2017, and additional complaints in days following the Event. The Department of Environmental Health/Public Health Inspections received four noise complaints – two from the Colorado State Capitol, one from the Wellington Webb Building, and one from the Ralph L. Carr Colorado Judicial Center. The Parks and Recreation Department received a complaint from the Colorado State Patrol regarding the impact of the Event on the State Capitol building.

Court staff in the City and County Building provided feedback throughout the day that the noise was a disturbance to their work. Kelly Boe, District Administrator of the Denver District and Juvenile Court advised at 3:24 p.m. on April 20th as follows:

This has been incredibly impactful on our staff. The windows in the front of the building are rattling the base (*sic*) is so high. You might want to get some feedback from the building tenants as to how they thought it went. We have courtrooms that can't even work because you can't hear the parties. Just wanted to give you heads up.

On April 21, 2017, Ms. Boe forwarded additional complaints compiled by Wendy Kendall of the District Court as follows:

As you know the work we do in the Clerk's office is very detail-oriented. We process all of the filings that come into Denver District Court for Civil and Domestic cases that are filed by pro se parties and attorneys alike. My employees need to be able to concentrate and focus on the work they are processing. Due to the 4/20 celebration, my employees have not been able to focus on their work.

The compiled complaints forwarded by Ms. Kendall include the following:

The impact the event that 4/20 has had on my work has been significant. The noise level outside our building has made it extremely frustrating and hard to concentrate on everyday tasks. The ability to focus on processing FIDs, scanning and uploading pleadings, answering phone calls, and communicating with coworkers has been impeded by the loud vibrating noises of the sound check and concert that take place right outside in front of our building. It has caused extreme headaches from the noise that has come from this event. It has impacted a whole day's work since this started as early as 10am, so the impact of working on this day has been really frustrating overall. - Diana Oregon, CJA

With what is going on, it is very hard to concentrate. As the day has progressed, it seems like the volume has increased and that the vibrations are getting worse and worse. I have been listening to music all day, yet the noise and vibrations have still bothered me. I have had to take a couple breaks just so that I can clear my head and think about work again. I have had a mild headache all day with dealing with the vibrations. It just seems like the vibrations are inside my head and I can't get rid of the racket. It is very easy to lose focus on work because all I can think about are the vibrations and what is going on outside. – Tory Clark, CJA

The event today seriously impacted my ability to do my work. The extremely loud music and bass, which started before 10 am in the morning and played continuously throughout the day, affected me in the following ways:

- The constant vibrations rattled the windows, my desk, my keyboard, the floor; and especially in 258, where it was so bad, the windows sounded as though they would break because they were rattling so hard and where the sound was so loud you couldn't hear yourself think.
- The volume and bass levels increased throughout the day to the point where it felt as though I couldn't hear myself think and caused a migraine in which I had to take multiple pain medications and it still did not fully subside, and I felt that I could not hear anything properly and that my hearing was damaged temporarily.
- The volume and bass levels were so loud, along with the rattling windows, that it was very hard to call anyone and be able to hear them or for them to hear me, which affected my ability to speak with anyone that I needed to call for various questions about cases and filings.
- It has been EXTREMELY hard to concentrate on my work and do it correctly when there has been a constant deep vibration and extremely loud music.
- The volume level of the music and bass became so loud in the afternoon that it was difficult to speak in normal speaking voices with my co-worker who is in the adjoining cubicle to mine (let's say 4/5 feet away) and our supervisors on call have had difficulties all day with helping out those in the back office because they cannot hear us.
- It has been very difficult to work at an efficient pace in getting FIDs and especially new cases that need extra focus and concentration filed correctly with a constant buzzing of differing bass tones and excessive noise levels this nonstop concert since 9:45 AM has caused.

In sum, the event today made it extremely difficult to concentrate on my work and do it efficiently and to our standards and procedures, made it difficult, if not impossible, to talk with attorneys on the phone that I needed to get authority from (and pretty much talk on the phone in general), and caused a migraine due to the volume level and ESPECIALLY the constant subwoofer bass vibrations that did not stop for longer than five minutes from 9:45 in the morning until the end of the work day. I am unhappy with the way this event affected my ability to do all aspects of my job and that it was difficult for me to get away from the very source of my migraine, and which progressively became worse as the event organizers apparently had no issue with continuously raising volume and bass levels all day. I am dreading next year's event. – Andrika, CJA

My work has been affected today by the noise and crowds from today. I have had to have my headphones in when I am at my desk, and I have had my music up louder than I am comfortable with. I have had a hard time focusing, and now I have backlog.

Also, the majority of the customers that have come in today were only here because they had a hearing today/they had to be here today. I feel like this setup and the stage has impaired people from coming into the courthouse today, limiting their access to us. – Mel, CJA

The City also received a complaint from Presiding Judge Elizabeth Leith regarding the noise. Judge Leith's complaint included the following:

I would like to let you know that the event was extremely disruptive to the Denver Probate Court. It was actually more disruptive than the event held following the Bronco's win of the superbowl (*sic*). The music throughout the day caused all of the window panes in the courtroom and all offices lining the front of the building to shake and rattle, including the window shades. The volume of bass also caused people's ears to hurt and to have headaches. . . . I made the decision to close the front clerk's office and let staff leave for the day at approximately 2:30 p.m. since the disruption was too great and the public were not coming in. I would not have been able to conduct any proceedings in the courtroom. Thank you for passing this along.

I am aware that some offices within both the City and County Building and Wellington Webb Building determined to end business early on April 20th due to the disruption and disturbance caused by the noise from your Event.

Although the City received these multiple complaints as the day continued, we acknowledge that we did not communicate to you the need to adjust the volume and vibration of your amplified sound system during the Event. Therefore, this letter is a written warning of the noise disturbance you created under Section 6.14.1 of the Policy, and you are accordingly advised that any future events you may hold will include requirements regarding the volume and vibration of your amplified sound, location of sound system speakers and stage, as well as possible time and hour restrictions on the amplified sound, to prevent future disturbances.

Trash

As part of your permit application, you were required to provide a Trash Removal Agreement and/or Plan. *See* Attachment 1. The email from Erin Burke (in Attachment 1) stated that Parks was requiring evidence of a reservation for trash and security services, which evidence could include an invoice, purchase order or contract. As evidence of your trash plan, you submitted a proposal from JM Productions, LLC, which shows, among other items, that you were providing the following for the event:

- 3 – 30 yard rolls offs
- 80 – 45-gallon plastic trash can drums
- 160 trash can liners

See Attachment 2. You also submitted a Service Agreement with S & B Porta-bowl Restrooms that indicates providing 60 trash boxes. See Attachment 3.

Your initial walkthrough with Parks on March 29, 2017 indicates that Parks reviewed with you the trash removal plan and location of receptacles. See Attachment 4. Your Run of Show indicates that breakdown and clean-up of the park would occur between 10:00 p.m. and 12:00 a.m. on Thursday, April 20, 2017, with extensive park clean (power washing) to occur on Friday, April 21, 2017. Attachment 5.

Cleaning and trash are also addressed in the Policy. Section 6.1.3.11 of the Policy requires the following:

The Permittee is responsible, during the Event and Load-In and Load-Out, for the **timely and effective cleaning and sanitizing** of all areas of the Event Site and, if required, any other City-owned property used or impacted by the Event. This obligation shall include the removal and proper disposal of trash and waste and the removal of any markings or any graffiti on the property that occurred during or related to the Event.

(Emphasis added.)

Section 6.4.6 of the Policy states:

All trash and waste, including but not limited to grease, sewage, plates, cups, utensils, and food waste shall be disposed of in dumpsters, trash receptacles, and recycling containers supplied by the Permittee. Permittee is responsible for providing the proper and prompt removal and disposal of trash and waste products. Existing trash containers in a Park may not be used to supplement or replace the trash containers and trash removal service required or the Event.

(Emphasis added.)

Despite the preparation of your trash plan, confirmation of your trash plan, and the requirements in the Policy, you failed to timely provide adequate trash receptacles for the Event or manage the disposal of the trash properly for the Event. Park Rangers advised that you did not provide the number of required trash cans in your plan during the Event. Photos (Attachment 6) show City trash cans overflowing during the Event, with trash on the ground surrounding City trash cans. The Event began at 10:00 a.m., yet you provided no trash receptacles for the beginning of the Event. Parks' staff contacted Santino Walter, your event organizer and representative, around 12:15 p.m. on April 20, 2017 to ask where the trash receptacles were. Mr. Walter advised that two different companies were on their way with trash boxes within the half hour. While a limited number of trash boxes eventually may have been provided, it appears that you failed to provide the proper number of receptacles per your trash plan. When we met on May 18, 2017 to discuss the Event, Santino Walter acknowledged that your trash contractor failed to bring the trash receptacles for the Event. As the Permittee, however, you are responsible to comply with the Policy and the Permit, and provide the trash receptacles.

In addition to failing to provide adequate trash receptacles, you also failed to have the trash emptied or managed effectively, and Parks' staff contacted your organizers again around 3:00 p.m. to advise that staff was responsible for cleaning up the trash, both in the Permittee-provided receptacles and the City trash

cans. Parks' staff again spoke with Mr. Walter around 7:00 p.m. because of the trash situation, and were advised that a trash clean-up crew of 24 people would be there around 7:30 p.m. to clean the trash. Yet, despite the plans you submitted, the requirements in the permit, and the constant contact by Parks' staff regarding the condition of the trash, and what you told us on site that day, you failed to comply with requirements to timely and effectively clean the area, and provide adequate trash containers and trash removal for the Event.

I am aware that Mr. Walter has publicly advised the trash clean-up was the responsibility of the Permittee, and that this was an oversight by the event organizers. I am also aware of your public statements that an unknown individual entered the park overnight and cut open bags and distributed trash. I asked Police to confirm whether the HALO cameras in the Park verify this allegation. I am advised that the cameras detected no such individual opening and distributing trash throughout the Park in the manner you described. Even if this had happened, your Run of Show states that Permittee will clean the Park between 10:00 p.m. and 12:00 a.m., with power washing to occur on April 21, 2017. Leaving trash overnight in the Park, even if it had been bagged, is not effective or timely removal of trash from the Park. Photographs of the Park both in the evening after the event and the next morning show no discernable effort to clean up the trash before midnight.

Pursuant to Section 8.4.4 of the Policy, I find that as the Permittee, you failed or substantially refused to comply with Sections 6.1.3.11 by failing to timely and effectively clean the Event Site.

I also find that as the Permittee you failed or substantially refused to comply with Section 6.4.6 of the Policy by failing to provide trash receptacles.

Safety and Security

As part of your permit, you submitted a safety and security plan for the Event. The plan you submitted includes, among other things, 4 secured points of entry into the Event, with a minimum of two security guards (maximum of four) using wand metal detectors, plus a minimum of 4 event staff at each entry point, for a minimum of 6 persons at each entry point. *See Attachment 7.* Yet on the morning of your Event, you only opened three entrances. You eventually opened the fourth entrance (located at Colfax and Broadway) after Police and other City staff expressed concern over the long lines of attendees trying to enter the eVENT, and reminded you that your plan showed a fourth entrance. Police observed that you had less than the specified number of security guards and staff (pursuant to your security plan), and that the City made several efforts to contact your representatives to arrange for additional personnel at each of the entrances because of the increasingly long lines and lengthy time for individuals to gain entrance to the Event. As the day progressed, attendees eventually got frustrated with the long lines, and broke through the fences. Parks & Recreation relied upon your plans that you submitted for the safety as well as the success of your Event. However, you did not comply with your own plans, causing safety and security concerns.

I find that you have failed or refused to substantially comply with the approved safety and security plan, under Section 8.4.4 of the Policy.

Health Violations

Section 6.16 of the Event Policy states that you, as the Permittee, are required to comply with all rules and regulations, requirements, restrictions, permits, licenses, approvals required or imposed by any other City Agency. The Department of Environmental Health advised you on multiple occasions before the Event that your food vendors were required to be licensed properly to sell food at an event. Yet, the Department of Health discovered eight of your food vendors were not properly licensed. Three of your food vendors (The Ginger Pig, Tacos Y Tortas La Reyna Azteca, and Frozen Matter) did not hold the required Denver mobile retail food establishment license. Five other food vendors (World of Weed CBD, Sacred Body CBD, Saint Raphael of the Hills CBD, Icon Investments, and Box Studios) were operating at your Event without the required Denver temporary retail food establishment license. This constitutes 8 separate violations by you of Rule 10-13(C) of the Denver Rules and Regulations Governing Food Establishments, that requires event coordinators to allow only licensed vendors who sell regulated food products to participate in an event.

As the Permittee, you are also responsible for the violations caused by Permittee Workers. Section 8.4.5 of the Policy provides that if any of your Permittee Workers (defined as “employee, worker, volunteer, contractor, subcontractor, service provider, supplier, vendor, exhibitor, performer, entertainer, athlete or similar person authorized or retained by the Permittee”) fails or refuses to substantially comply with required permits or licenses from other City agencies, then you are subject to certain penalties. Policy, Section 2.3.

The Department of Environmental Health found the following food vendors with egregious violations:

Vendor name	No license	Imminent health hazard (e.g. food prepared in a home, lack of handwashing sink, unapproved source of food)
Box Studios (booth)	x	x
Frozen Matter (truck)	x	
Big Boys (truck)	x	x
Heavenly Dogs (booth)	x	x
Ginger Pig (booth)	x	
Tacos y Tortas (booth)	x	
La Reya Azteca (booth)	x	
Sacred Body (CBD vendor)	x	x
Saint Raphael of the Hills (CBD vendor)	x	x
World of Weed (CBD vendor)	X	x
Azteca Catering (booth)		x

This constitutes 15 separate violations by Permittee Workers.

Other City Agency Violations

Finally, I am advised by Public Works that you also violated certain street closure permit requirements. First, you permitted vehicles to be on the sidewalk during the Event. Section II (2) of the Public Works Rules and Regulations Pertaining to the Issuance of Permits by the City Traffic Engineer (Public Works Rules) requires a Street Occupancy Permit for any vehicle that is occupying the "traveled lanes, sidewalk, sidewalk area". Your Street Occupancy Permit did not include occupying sidewalks. In addition to vehicles blocking access, you also permitted your fencing for the Event to be knocked down into the adjacent sidewalk, impeding access. Section III (3) of the Public Works Rules requires that all barricades (including fences) and signage be in place. Fencing on the ground blocking access violates this provision. This same section of the Public Works Rules also states that barricades are to be removed from the street when not in use. Yet you removed the barricades from Bannock while Bannock was still in use, with port-a-lets and trailers still in the street. Photographs of the open street with the port-a-lets and a trailer, as well as photographs of vehicles and fences blocking the sidewalks are attached in the Public Works Event Log, Attachment 8.

Conclusion

Violations by Permittee

Based on my evaluation, I find that you have violated the following provisions under Section 8.4.4 of the Policy:

- Failed or refused to substantially comply with an approved plan (security plan);
- Failed or refused to substantially comply with any applicable Requirements set forth in Part VI or Part VII of the Public Event Policy, by violating Section 6.1.3.11 of the Policy (trash);
- Failed or refused to substantially comply with any applicable Requirements set forth in Part VI or Part VII of the Public Event Policy, by violating Section 6.4.6 of the Policy (trash);
- Eight counts of failed or refused to substantially comply with Part VI or Part VII of the Public Event Policy, by violating Section 6.16 of the Policy (unlicensed food vendors);
- Three counts of failed or refused to substantially comply with Part VI or Part VII of the Public Event Policy, by violating Section 6.16 of the Policy (Public Works street occupancy permit violations).

Section 8.4.4 of the Policy provides the following penalties:

- For the first violation within three consecutive years: A written warning.
- For the second violation within three consecutive years: A fine of one hundred dollars (\$100) plus ten percent (10%) of the Fee applicable to the Event under the Fee Ordinance.
- For the third violation within three consecutive years: A fine of one hundred dollars (\$100) plus twenty percent (20%) of the fee applicable to the Event under the Fee Ordinance.

- For the fourth violation within three consecutive years: A fine of one hundred dollars (\$100) plus thirty percent (30%) of the fee applicable to the Event under the Fee Ordinance. In addition, if the Event is a Priority Event or in the process of qualifying to be a Priority Event, all claims to such status shall be deemed lost.
- For the fifth violation within three consecutive years: The Permittee shall be barred from being granted any Event permit for three (3) years. In addition, if the Event is a Priority Event or in the process of qualifying to be a Priority Event, all claims to such status shall be deemed lost.

Please note that the penalties listed above are cumulative. Since I find multiple violations from this Event, I am imposing the following penalties:

- First violation: consider this letter your written warning
- Second violation: \$100 plus 10% of \$7,975.00 permit fee = \$897.50
- Third violation: \$100 plus 20% of \$7,975.00 permit fee = \$1,695.00
- Fourth violation: \$100 plus 30% of \$7,975.00 permit fee = \$2,492.50 and loss of Priority Event status
- Fifth violation: Barred from being granted any event permit for three (3) years and loss of Priority Event Status.

The total penalty amount for violations by Permittee is **\$5,085.00**, plus the loss of your Priority Event status, and you (both individually and as your company) will not be eligible to obtain any event permit for three years.

Violations by Permittee Workers

In addition to the violations I find against you as Permittee, I also find fifteen violations by Permittee Workers (8 unlicensed food vendors, and 7 imminent health violations), as noted above regarding food vendor violations. The penalties provided in Section 8.4.5 are as follows:

- For the first violation within three consecutive years: A written warning.
- For the second violation within three consecutive years: A fine of one hundred dollars (\$100) plus five percent (5%) of the Fee applicable to the Event under the Fee Ordinance.
- For the third violation within three consecutive years: A fine of one hundred dollars (\$100) plus ten percent (10%) of the Fee applicable to the Event under the Fee Ordinance.
- For the fourth violation within three consecutive years: A fine of one hundred dollars (\$100) plus fifteen percent (15%) of the Fee applicable to the Event under the Fee Ordinance.
- For the fifth violation within three consecutive years: A fine of one hundred dollars (\$100) plus twenty percent (20%) of the Fee applicable to the Event under the Fee Ordinance.

- For the sixth violation within three consecutive years: A fine of one hundred dollars (\$100) plus thirty percent (30%) of the Fee applicable to the Event under the Fee Ordinance.

Please note that the penalties listed above are cumulative.

Since I find fifteen violations by Permittee Workers, I am imposing the following penalties:

- First violation: consider this letter your written warning
- Second violation: \$100 plus 5% of \$7,975.00 permit fee = \$498.75
- Third violation: \$100 plus 10% of \$7,975.00 permit fee = \$897.50
- Fourth violation: \$100 plus 15% of \$7,975.00 permit fee = \$1,296.25
- Fifth violation: \$100 plus 20% of \$7,975.00 permit fee = \$1,695
- Sixth violation: \$100 plus 30% of \$7,975.00 permit fee = \$2,492.50

The total penalty amount for violations by Permittee Workers is **\$6,880**.

Parks staff has also completed its assessment post event of the damage, and finds \$190.00 due for damage, as itemized in Attachment 9.

In summary, I am imposing upon you a total monetary penalty in the amount of \$11,965, banning you from being granted any event permit for three years, and rescinding your Priority Event status. Additionally, I am charging you for \$190 in damages as described in Attachment 9. Parks and Recreation is holding your deposit in the amount of \$2,831.25. I will subtract the penalty assessment and damages from your deposit, which leaves a balance due by you of **\$9,323.75**. If you provide a check, please make it payable to the Denver Chief Financial Officer. Please pay this amount by June 20, 2017, by delivering or mailing it to:

Executive Director
Department of Parks and Recreation
201 W. Colfax Avenue, Dept. 601
Denver, CO 80202

Pursuant to Section 8.4.6 of the Policy, any citation or penalty assessed under section 8.4 is subject to an administrative appeal under the Administrative Citations Rules & Regulations, as amended and as adopted by the DPR Executive Director. You may appeal this determination by filing a written notice of appeal, along with the required \$25.00 fee under Section IV of the Administrative Citation Rules, which is due fifteen (15) days from the date of this determination. Under Subsection IV(C), you may submit the appeal by mail, email or hand delivery in accordance with the Administrative Citation Rules as follows:

Mail or hand deliver to:

Executive Director
Department of Parks and Recreation
201 W. Colfax Avenue, Dept. 601
Denver, CO 80202
ATTN: APPEAL

Or email to:

ParksRec-Manager@denvergov.org

Subsection IV(E) sets forth the requirements for the contents of the appeal. Please note that you must timely file before Parks and Recreation is required to hear any appeal. Further, the \$25.00 processing fee must be delivered with the notice of appeal. If you provide a check, then it should be made out to the Denver Chief Financial Officer. The \$25.00 fee will be refunded if you prevail on your appeal.

Sincerely,


Happy Haynes
Executive Director

Attachments:

- 1 – Email with various attachments to Miguel Lopez dated December 30, 2016
- 2 – MJ Productions, LLC Proposal
- 3 – S & B Porta-bowl Restroom Service Agreement
- 4 - Denver Parks & Recreation Initial Walkthrough – 420 Rally; March 29, 2017
- 5 –420 Rally 2017 – Run of Show
- 6 – Ranger photos of trash during event
- 7 – 420 Rally Safety and Security Plan
- 8 –Public Works Event log from 4/20 Event
- 9 – Parks & Recreation damage charges